



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed September 28, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Oconto County Department of Health And Human Services in regard to FoodShare benefits (FS), a hearing was held on November 03, 2015, at Oconto, Wisconsin.

The issue for determination is whether the county agency correctly reduced the petitioner's FoodShare (FS) benefit from \$194 to \$16 effective October 1, 2015, due to budgeting the petitioner's new unemployment compensation (UC) unearned income which began during August, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED], ESS

Oconto County Department of Health And Human Services
501 Park Avenue
Oconto, WI 54153-1612

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED] 9) is a resident of Oconto County who resides in a household of one.
2. The petitioner receives FoodShare (FS) benefits for a group of one.

3. On or about September 12, 2015, the county agency discovered that petitioner began receiving Unemployment Compensation (UC) weekly benefits of \$281 as of August 11, 2015. See Exhibit 1/2.
4. As of August, 2015, the petitioner's monthly UC benefits are \$1,208.30 ($\$281 \times 4.3 = \$1,208.30$) for FS purposes. See Exhibit 1.
5. The county agency sent a September 14, 2015 Notice of Decision to the petitioner that his FS benefits would be reduced from \$194 to \$16 per month effective October 1, 2015, due to budgeting the petitioner's new unemployment compensation (UC) unearned income which began during August, 2015. See Exhibit 1.

DISCUSSION

In determining the amount of FS to be issued each month, the county must **budget all income of the FS household, including all earned and unearned income.** 7 C.F.R. §273.9(b). From the gross household income, certain deductions as discussed in the *FoodShare Wisconsin Handbook*, §4.6 are allowed: (1) standard deduction - which currently is \$134 per month for all households. 7 C.F.R. §273.9(d) (1); (2) earned income deduction - which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d) (2); (3) medical expense deduction - for medical expenses exceeding \$35 in a month for an elderly or disabled person. 7 C.F.R. §273.9(d) (3); (4) dependent care deduction for child care expenses. 7 C.F.R. §273.9(d) (4); and (5) shelter expenses deduction - the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d) (5). The maximum FS allotment amounts, based on household size, are listed at *FoodShare Wisconsin Handbook*, §8.1.7. The *FS Handbook* can be viewed online at <http://www.emhandbooks.wi.gov/fsh/>.

During the November 3, 2015 hearing, ESS [REDACTED] provided petitioner a detailed explanation regarding the calculation of the reduction in petitioner's FS benefits from \$194 to \$16 effective October 1, 2015, due to budgeting the petitioner's new unemployment compensation (UC) unearned income which began August 11, 2015. During that hearing (after hearing the agency's case), petitioner was unable to refute the agency's case that it had correctly calculated the petitioner's income for a FS household of one based upon budgeting petitioner's new unemployment compensation benefits in calculating the petitioner's FS benefits as of October, 2015. In reviewing the county agency's calculation of petitioner's FS benefits based upon FS policy and law, I find no error. Accordingly, for the above reasons, I must conclude that the county agency correctly reduced the petitioner's FoodShare (FS) benefit from \$194 to \$16 effective October 1, 2015, due to budgeting the petitioner's new unemployment compensation (UC) unearned income which began during August, 2015.

CONCLUSIONS OF LAW

The county agency correctly reduced the petitioner's FoodShare (FS) benefit from \$194 to \$16 effective October 1, 2015, due to budgeting the petitioner's new unemployment compensation (UC) unearned income which began during August, 2015.

THEREFORE, it is

ORDERED

The petition for review herein be and the same is hereby Dismissed.



REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

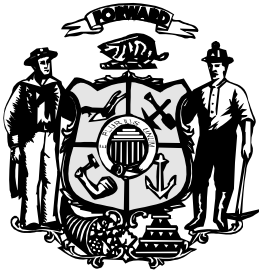
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 20th day of November, 2015

\sGary M. Wolkstein
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 20, 2015.

Oconto County Department of Health And Human Services
Division of Health Care Access and Accountability